

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MAREN HOGAN, and)
GALAVANTING PRODUCTIONS,)
L.L.C., a Colorado Limited Liability)
Company,)

8:13CV137

Plaintiffs,)

v.)

**MEMORANDUM
AND ORDER**

GALAVANTING PRODUCTIONS,)
L.L.C., a Colorado Limited Liability)
Company, and KIMBERLY MANCE,)

Defendants.)

This matter is before the court on the findings and recommendation by Magistrate Judge Zwart (filing [21](#)), recommending that the plaintiffs' motion for remand be granted, the plaintiffs' request for recovery of attorneys' fees be denied, and that this case be remanded to the District Court of Douglas County, Nebraska. The plaintiffs have filed an objection (filing [22](#)) pursuant to [NECivR72.2](#), [Fed. R. Civ. P. 72](#), and [28 U.S.C. § 636\(b\)\(1\)](#) regarding the portion of Magistrate Judge Zwart's recommendation that the plaintiffs' request for attorneys' fees resulting from the improper removal of this case be denied. No party filed objections regarding the Magistrate Judge's recommendation that this case be remanded to state district court.

I have conducted a de novo review of the record regarding the issue of attorneys' fees. [28 U.S.C. § 636\(b\)\(1\)](#) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Pursuant to [28 U.S.C. § 1447\(c\)](#),

“[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.” A court may award attorneys’ fees under this provision when “the removing party lacked an objectively reasonable basis for seeking removal. Conversely, when an objectively reasonable basis exists, fees should be denied.” [*Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 \(2005\)](#).

I find that inasmuch as the Magistrate Judge has fully, carefully, and correctly applied the law regarding awarding attorneys’ fees in cases with the procedural posture involved here, the Magistrate Judge’s findings and recommendation regarding the denial of the plaintiffs’ request for attorneys’ fees should be adopted, and the plaintiffs’ statement of objections should be denied. Further, the Magistrate Judge’s recommendation regarding the remand (to which there was no objection) should be adopted.

Accordingly,

IT IS ORDERED:

1. The Magistrate Judge’s findings and recommendations (filing [21](#)) are adopted;
2. The plaintiffs’ statement of objections (filing [22](#)) is denied;
3. The plaintiffs’ motion to remand (filing [7](#)) is granted, and the plaintiffs’ motions to strike and for attorneys’ fees (filing [7](#)) are denied;
4. This case shall be remanded to the District Court of Douglas County, Nebraska; and
5. Judgment shall be entered by separate document.

DATED this 26th day of August, 2013.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

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